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**PRELIMINARY DRAFT**  
**No. 3075**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2006 GENERAL ASSEMBLY**

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**DIGEST**

**Citations Affected:** P.L.186-2005, SECTION 1.

**Synopsis:** Extension of nursing facility assessment fee. Extends collection of the nursing facility quality assessment until August 1, 2007.

**Effective:** July 1, 2006.



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A BILL FOR AN ACT concerning Medicaid.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. P.L. 186-2005, SECTION 1, IS AMENDED TO READ  
2 AS FOLLOWS [EFFECTIVE JULY 1, 2006]: SECTION 1. (a) As used  
3 in this SECTION, "health facility" refers to a health facility that is  
4 licensed under IC 16-28 as a comprehensive care facility.

5       (b) As used in this SECTION, "nursing facility" means a health  
6 facility that is certified for participation in the federal Medicaid  
7 program under Title XIX of the federal Social Security Act (42 U.S.C.  
8 1396 et seq.).

9       (c) As used in this SECTION, "office" refers to the office of  
10 Medicaid policy and planning established by IC 12-8-6-1.

11       (d) As used in this SECTION, "total annual revenue" does not  
12 include revenue from Medicare services provided under Title XVIII of  
13 the federal Social Security Act (42 U.S.C. 1395 et seq.).

14       (e) Effective August 1, 2003, the office shall collect a quality  
15 assessment from each nursing facility that has:

16           (1) a Medicaid utilization rate of at least twenty-five percent  
17 (25%); and

18           (2) at least seven hundred thousand dollars (\$700,000) in annual  
19 Medicaid revenue, adjusted annually by the average annual  
20 percentage increase in Medicaid rates.

21       (f) If the United States Centers for Medicare and Medicaid Services  
22 determines not to approve payments under this SECTION using the  
23 methodology described in subsection (e), the office shall revise the  
24 state plan amendment and waiver request submitted under subsection  
25 (l) as soon as possible to demonstrate compliance with 42 CFR  
26 433.68(e)(2)(ii). The revised state plan amendment and waiver request  
27 must provide for the following:

28           (1) Effective August 1, 2003, collection of a quality assessment  
29 by the office from each nursing facility.

30           (2) Effective August 1, 2003, collection of a quality assessment  
31 by the department of state revenue from each health facility that  
32 is not a nursing facility.



(3) An exemption from collection of a quality assessment from the following:

(A) A continuing care retirement community.

(B) A health facility that only receives revenue from Medicare services provided under 42 U.S.C. 1395 et seq.

(C) A health facility that has less than seven hundred fifty thousand dollars (\$750,000) in total annual revenue, adjusted annually by the average annual percentage increase in Medicaid rates.

(D) The Indiana Veterans' Home.

Any revision to the state plan amendment or waiver request under this subsection is subject to and must comply with the provisions of this SECTION.

(g) If the United States Centers for Medicare and Medicaid Services determines not to approve payments under this SECTION using the methodology described in subsections (e) and (f), the office shall revise the state plan amendment and waiver request submitted under subsection (l) as soon as possible to demonstrate compliance with 42 CFR 433.68(e)(2)(ii) and to provide for collection of a quality assessment from health facilities effective August 1, 2003. In amending the state plan amendment and waiver request under this subsection, the office may modify the parameters described in subsection (f)(3). However, if the office determines a need to modify the parameters described in subsection (f)(3), the office shall modify the parameters in order to achieve a methodology and result as similar as possible to the methodology and result described in subsection (f). Any revision of the state plan amendment and waiver request under this subsection is subject to and must comply with the provisions of this SECTION.

(h) The money collected from the quality assessment may be used only to pay the state's share of the costs for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) as follows:

(1) Twenty percent (20%) as determined by the office.

(2) Eighty percent (80%) to nursing facilities.

(i) After:

(1) the amendment to the state plan and waiver request submitted under this SECTION is approved by the United States Centers for Medicare and Medicaid Services; and

(2) the office calculates and begins paying enhanced reimbursement rates set forth in this SECTION;

the office and the department of state revenue shall begin the collection of the quality assessment set under this SECTION. The office and the department of state revenue shall establish a method to allow a facility to enter into an agreement to pay the quality assessment collected under this SECTION subject to an installment plan.

(j) If federal financial participation becomes unavailable to match



1 money collected from the quality assessments for the purpose of  
 2 enhancing reimbursement to nursing facilities for Medicaid services  
 3 provided under Title XIX of the federal Social Security Act (42 U.S.C.  
 4 1396 et seq.), the office and department of state revenue shall cease  
 5 collection of the quality assessment under this SECTION.

6 (k) To implement this SECTION, the:

7 (1) office shall adopt rules under IC 4-22-2; and

8 (2) office and department of state revenue shall adopt joint rules  
 9 under IC 4-22-2.

10 (l) Not later than July 1, 2003, the office shall do the following:

11 (1) Request the United States Department of Health and Human  
 12 Services under 42 CFR 433.72 to approve waivers of 42 CFR  
 13 433.68(c) and 42 CFR 433.68(d) by demonstrating compliance  
 14 with 42 CFR 433.68(e)(2)(ii).

15 (2) Submit any state Medicaid plan amendments to the United  
 16 States Department of Health and Human Services that are  
 17 necessary to implement this SECTION.

18 (m) After approval of the waivers and state Medicaid plan  
 19 amendment applied for under subsection (l), the office and the  
 20 department of state revenue shall implement this SECTION effective  
 21 July 1, 2003.

22 (n) The select joint commission on Medicaid oversight, established  
 23 by IC 2-5-26-3, shall review the implementation of this SECTION. The  
 24 office may not make any change to the reimbursement for nursing  
 25 facilities unless the select joint commission on Medicaid oversight  
 26 recommends the reimbursement change.

27 (o) A nursing facility or a health facility may not charge the facility's  
 28 residents for the amount of the quality assessment that the facility pays  
 29 under this SECTION.

30 (p) The office may withdraw a state plan amendment under  
 31 subsection (e), (f), or (g) only if the office determines that failure to  
 32 withdraw the state plan amendment will result in the expenditure of  
 33 state funds not funded by the quality assessment.

34 (q) If a health facility fails to pay the quality assessment under this  
 35 SECTION not later than ten (10) days after the date the payment is due,  
 36 the health facility shall pay interest on the quality assessment at the  
 37 same rate as determined under IC 12-15-21-3(6)(A).

38 (r) The following shall be provided to the state department of health:

39 (1) The office shall report each nursing facility that fails to pay  
 40 the quality assessment under this SECTION not later than one  
 41 hundred twenty (120) days after payment of the quality  
 42 assessment is due.

43 (2) The department of state revenue shall report each health  
 44 facility that is not a nursing facility that fails to pay the quality  
 45 assessment under this SECTION not later than one hundred  
 46 twenty (120) days after payment of the quality assessment is due.



- 1 (s) The state department of health shall do the following:
- 2 (1) Notify each nursing facility and each health facility reported
- 3 under subsection (r) that the nursing facility's or health facility's
- 4 license under IC 16-28 will be revoked if the quality assessment
- 5 is not paid.
- 6 (2) Revoke the nursing facility's or health facility's license under
- 7 IC 16-28 if the nursing facility or the health facility fails to pay
- 8 the quality assessment.
- 9 (t) An action taken under subsection (s)(2) is governed by:
- 10 (1) IC 4-21.5-3-8; or
- 11 (2) IC 4-21.5-4.
- 12 (u) The office shall report the following information to the select
- 13 joint commission on Medicaid oversight established by IC 2-5-26-3 at
- 14 every meeting of the commission:
- 15 (1) Before the quality assessment is approved by the United States
- 16 Centers for Medicare and Medicaid Services:
- 17 (A) an update on the progress in receiving approval for the
- 18 quality assessment; and
- 19 (B) a summary of any discussions with the United States
- 20 Centers for Medicare and Medicaid Services.
- 21 (2) After the quality assessment has been approved by the United
- 22 States Centers for Medicare and Medicaid Services:
- 23 (A) an update on the collection of the quality assessment;
- 24 (B) a summary of the quality assessment payments owed by a
- 25 nursing facility or a health facility; and
- 26 (C) any other relevant information related to the
- 27 implementation of the quality assessment.
- 28 (v) This SECTION expires August 1, ~~2006~~ **2007**.

